

SENATE BILL 792

P2, I2

(2lr2297)

ENROLLED BILL

— Finance/Economic Matters —

Introduced by **Senators Garagiola, Glassman, Kelley, King, Kittleman, Klausmeier, Madaleno, Manno, Mathias, Muse, Pugh, Raskin, Robey, and ~~Young Young, Middleton, and Astle~~**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 ~~State Procurement - Banking Services Preference~~ **Linked Deposit Program**
3 **for Small Businesses - Lend Local Act of 2012**

4 FOR the purpose of ~~requiring the State Treasurer, when deciding whether to~~
5 ~~designate or make an agreement with a financial institution to provide certain~~
6 ~~banking services to the State or an agency of the State, to consider whether the~~
7 ~~financial institution is operating in the State with certain total assets and~~
8 ~~commits to make loans to small businesses in the State in an aggregate amount~~
9 ~~of at least a certain percentage of certain incremental funds; and generally~~
10 ~~relating to the procurement of banking services by the State~~ **establishing a**
11 **Linked Deposit Program for Small Businesses in the Department of Housing**
12 **and Community Development for a certain purpose; specifying that certain**
13 **loans qualify under the Program; requiring the Department of Housing and**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 Community Development to confirm with the Department of General Services
 2 that certain loans are made to certain businesses; requiring the Department of
 3 Housing and Community Development to establish certain procedures for a
 4 certain notification; requiring the Department of Housing and Community
 5 Development to receive loan applications from small businesses and forward
 6 loan applications to lenders; requiring the Department of Housing and
 7 Community Development to require small businesses to notify the Department
 8 of Housing and Community Development concerning final loan disposition;
 9 requiring the Department of Housing and Community Development to report
 10 annually to the Governor, the Treasurer, and the General Assembly on the
 11 overall performance of the Program; authorizing the Treasurer to establish the
 12 Program for investment of deposits in certain financial institutions; authorizing
 13 the Treasurer to make certain interest bearing deposits; authorizing the
 14 Treasurer to accept a rate that is a certain percent below current market rates
 15 or a certain index; authorizing the Treasurer to use up to a certain amount to
 16 make certain interest bearing deposits; requiring the Treasurer to reduce a
 17 certain loan amount on a certain notification; prohibiting a certain small
 18 business from being considered unqualified for certain purposes under certain
 19 circumstances; providing that a certain loan is not a debt of the State or a
 20 pledge of the credit of the State; providing that the Treasurer and the State are
 21 not liable to certain financial institutions for certain payments of a loan assisted
 22 by a linked deposit; authorizing the Treasurer and the Department of Housing
 23 and Community Development to adopt certain regulations; requiring the
 24 Treasurer to meet with representatives from the Maryland banking industry
 25 and certain related stakeholders for certain purposes; requiring the Treasurer
 26 to report to the General Assembly on or before a certain date; and generally
 27 relating to the establishment of a Linked Deposit Program for Small
 28 Businesses.

29 ~~BY repealing and reenacting, without amendments,~~
 30 ~~Article – State Finance and Procurement~~
 31 ~~Section 6 – 201(a), (b), (c), and (f)~~
 32 ~~Annotated Code of Maryland~~
 33 ~~(2009 Replacement Volume and 2011 Supplement)~~

34 ~~BY repealing and reenacting, with amendments,~~
 35 ~~Article – State Finance and Procurement~~
 36 ~~Section 6 – 203~~
 37 ~~Annotated Code of Maryland~~
 38 ~~(2009 Replacement Volume and 2011 Supplement)~~

39 BY adding to
 40 Article – State Finance and Procurement
 41 Section 6–212
 42 Annotated Code of Maryland
 43 (2009 Replacement Volume and 2011 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – State Finance and Procurement**

4 ~~6-201.~~

5 (a) ~~In this subtitle the following words have the meanings indicated.~~

6 (b) ~~“Banking institution” means an institution that is incorporated under the
7 laws of the State as a State bank, trust company, or savings bank.~~

8 (c) ~~“Financial institution” means:~~

9 (1) ~~any banking institution;~~

10 (2) ~~any national banking association;~~

11 (3) ~~an institution that is incorporated under the laws of any other
12 state as a bank; and~~

13 (4) ~~an institution that is incorporated under the laws of this State or of
14 the United States as a savings and loan association.~~

15 (f) ~~“National banking association” means an institution that is incorporated
16 under federal law as a bank.~~

17 ~~6-203.~~

18 (a) ~~The Treasurer shall give 15% of the weight of the decision to the
19 standards established in this section in deciding whether to:~~

20 (1) ~~designate a financial institution as a depository for State money
21 under § 6-205 of this subtitle; and~~

22 (2) ~~make an agreement with a financial institution for a banking
23 service under § 6-229 of this subtitle.~~

24 (b) (1) ~~The Treasurer shall consider whether the financial institution
25 received a rating of “needs improvement” or “substantial noncompliance” in its most
26 recent examination under the federal Community Reinvestment Act of 1977, P.L.
27 Number 95-128.~~

28 (2) ~~If a financial institution operates in a state other than Maryland,
29 the Treasurer shall consider Maryland-specific information that is provided within
30 the assessment area section of the Community Reinvestment Act report.~~

~~(e) (1) The Treasurer shall consider whether, during the previous 5 years, a court in Maryland has found, in a final adjudication, that a financial institution has violated any antidiscrimination statute or regulation.~~

~~(2) The Treasurer may consider whether, during the previous 5 years, a court outside Maryland has found, in a final adjudication, that a financial institution has violated any antidiscrimination statute or regulation.~~

~~(3) The Treasurer may determine how to assess a violation under paragraph (1) or (2) of this subsection if the violation was committed by:~~

~~(i) an affiliate of the financial institution; or~~

~~(ii) an entity acquired by the financial institution.~~

~~(d) The Treasurer shall consider whether the financial institution has demonstrated that during the previous 5 years, the financial institution has:~~

~~(1) successfully made loans in Maryland through State or federal lending programs designed to assist small and minority owned businesses;~~

~~(2) had an active outreach program to assist small and minority owned businesses through which the financial institution has made efforts in Maryland; and~~

~~(3) established strategic partnerships in Maryland with entities whose mission is to provide technical assistance to small and minority owned businesses.~~

~~**(E) THE TREASURER SHALL CONSIDER WHETHER THE FINANCIAL INSTITUTION:**~~

~~**(1) IS OPERATING IN THE STATE WITH TOTAL ASSETS OF LESS THAN \$5,000,000,000; AND**~~

~~**(2) COMMITS TO MAKE LOANS TO SMALL BUSINESSES IN THE STATE IN AN AGGREGATE AMOUNT OF AT LEAST 200% OF THE INCREMENTAL FUNDS THAT ARE DEPOSITED BY THE TREASURER.**~~

~~**6-212.**~~

~~**(A) (1) THERE IS A LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES IN THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.**~~

~~**(2) THE PURPOSE OF THE LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES IS TO STIMULATE OPPORTUNITIES FOR SMALL BUSINESSES**~~

1 TO HAVE ACCESS TO CREDIT BY ASSISTING THESE BUSINESSES IN OBTAINING
2 LOANS AT LOWER THAN MARKET INTEREST RATES.

3 (B) A LOAN QUALIFIES UNDER THE LINKED DEPOSIT PROGRAM FOR
4 SMALL BUSINESSES IF THE LOAN:

5 (1) SATISFIES THE LENDING CRITERIA OF THE FINANCIAL
6 INSTITUTION;

7 (2) HAS A TERM NOT EXCEEDING 10 YEARS;

8 (3) IS MADE TO A SMALL BUSINESS QUALIFIED UNDER TITLE 14,
9 SUBTITLE 5 OF THIS ARTICLE;

10 (4) HAS AN INTEREST RATE THAT IS 2 PERCENTAGE POINTS
11 BELOW THE INTEREST RATE THE FINANCIAL INSTITUTION WOULD CHARGE FOR
12 A LOAN FOR A SIMILAR PURPOSE AND A SIMILAR TERM; AND

13 (5) HAS POINTS OR FEES CHARGED AT LOAN CLOSING NOT
14 EXCEEDING 1 PERCENT OF THE LOAN AMOUNT.

15 (C) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
16 SHALL:

17 (1) CONFIRM WITH THE DEPARTMENT OF GENERAL SERVICES
18 THAT EACH LOAN UNDER THE LINKED DEPOSIT PROGRAM FOR SMALL
19 BUSINESSES IS MADE TO A BUSINESS THAT QUALIFIES AS A SMALL BUSINESS;

20 (2) ESTABLISH PROCEDURES FOR NOTIFICATION BY THE
21 DEPARTMENT OF GENERAL SERVICES IF A BUSINESS THAT HAS AN
22 OUTSTANDING BALANCE OF A LOAN UNDER THE LINKED DEPOSIT PROGRAM
23 FOR SMALL BUSINESSES NO LONGER QUALIFIES AS A SMALL BUSINESS;

24 (3) REQUIRE SMALL BUSINESSES AND LENDERS TO NOTIFY THE
25 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CONCERNING
26 FINAL LOAN DISPOSITION; AND

27 (4) REPORT ANNUALLY TO THE GOVERNOR, THE TREASURER,
28 AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE,
29 THE GENERAL ASSEMBLY ON OVERALL PERFORMANCE OF THE LINKED
30 DEPOSIT PROGRAM FOR SMALL BUSINESSES.

1 (D) THE TREASURER MAY ESTABLISH THE LINKED DEPOSIT PROGRAM
2 FOR SMALL BUSINESSES FOR INVESTMENT OF DEPOSITS IN ANY FINANCIAL
3 INSTITUTION THAT:

4 (1) THE TREASURER HAS DESIGNATED AS A DEPOSITORY FOR
5 STATE MONEY; AND

6 (2) MAKES A LOAN IN ACCORDANCE WITH SUBSECTION (B) OF
7 THIS SECTION.

8 (E) (1) THE TREASURER MAY MAKE ONE OR MORE INTEREST
9 BEARING DEPOSITS THAT ARE EQUAL TO:

10 (I) THE AMOUNT OF THE LOAN MADE BY THE FINANCIAL
11 INSTITUTION IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION; OR

12 (II) THE AGGREGATE AMOUNT OF TWO OR MORE LOANS
13 MADE BY ONE OR MORE FINANCIAL INSTITUTIONS IN ACCORDANCE WITH
14 SUBSECTION (B) OF THIS SECTION.

15 (2) IN MAKING AN INTEREST BEARING DEPOSIT UNDER THIS
16 SUBSECTION, THE TREASURER MAY ACCEPT A RATE THAT IS 2 PERCENTAGE
17 POINTS BELOW CURRENT MARKET RATES OR AN INDEX SELECTED BY THE
18 TREASURER.

19 (3) THE TREASURER MAY USE UP TO \$50,000,000 TO MAKE
20 INTEREST BEARING DEPOSITS IN AN AMOUNT EQUIVALENT TO THE AMOUNT
21 FINANCIAL INSTITUTIONS LOAN TO QUALIFIED SMALL BUSINESSES.

22 (F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ON
23 NOTIFICATION BY THE DEPARTMENT OF HOUSING AND COMMUNITY
24 DEVELOPMENT THAT A SMALL BUSINESS PARTICIPATING IN THE LINKED
25 DEPOSIT PROGRAM FOR SMALL BUSINESSES NO LONGER QUALIFIES AS A
26 SMALL BUSINESS UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE, THE
27 TREASURER SHALL REDUCE THE AMOUNT OF THE INTEREST BEARING DEPOSIT
28 WITH THE PARTICIPATING FINANCIAL INSTITUTION BY THE OUTSTANDING
29 BALANCE OF THE LOAN MADE UNDER THIS SECTION TO THE SMALL BUSINESS
30 THAT NO LONGER QUALIFIES UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE.

31 (2) A SMALL BUSINESS THAT LOSES ITS QUALIFICATION DUE TO
32 REVENUE OR EMPLOYEE GROWTH MAY NOT BE CONSIDERED UNQUALIFIED FOR
33 PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION.

1 **(G) (1) A LOAN ASSISTED BY A LINKED DEPOSIT IS NOT A DEBT OF**
 2 **THE STATE OR A PLEDGE OF THE CREDIT OF THE STATE.**

3 **(2) THE TREASURER AND THE STATE ARE NOT LIABLE TO ANY**
 4 **FINANCIAL INSTITUTION FOR PAYMENT OF THE PRINCIPAL OR INTEREST ON A**
 5 **LOAN ASSISTED BY A LINKED DEPOSIT.**

6 **(H) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**
 7 **AND THE TREASURER MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That:

9 (a) The State Treasurer shall meet with representatives from the Maryland
 10 banking industry and any related stakeholders and identify:

11 (1) impediments to participating in the procurement process for the
 12 selection of designated State depositories, including State agency and linked-deposit
 13 programs; *and*

14 (2) any possible solutions to any impediments identified under item (1)
 15 of this subsection.

16 (b) On or before December 31, 2012, the Treasurer shall report to the
 17 General Assembly, in accordance with § 2-1246 of the State Government Article, on
 18 the results of the meetings with representatives from the Maryland banking industry
 19 and any related stakeholders to the General Assembly.

20 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
 21 effect July 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.